

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : Samuel A. VONA, Jr.
SERIAL NO. : 10/789,004
CUSTOMER NO. : 27384
FILED : February 27, 2004
FOR : METHOD AND COMPOSITION TO ACHIEVE STABLE
COLOR OF ARTIFICIALLY COLORED HAIR
ART UNIT : 1615
EXAMINER : Melissa S. Mercier

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

September 29, 2011

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b)

SIR/MADAM:

In response to the Determination of Patent Term Adjustment (PTA) Under 35 USC §154(b) included with the Notice of Allowance mailed July 6, 2011, please enter and consider this Application for PTA under 37 CFR §1.705(b).

This Application for PTA under 37 CFR §1.705(b) is accompanied by the following:

1. Applicant hereby authorizes the Commissioner to charge the fee set forth in 37 CFR §1.18(e) to Deposit Account No. 14-1263.
2. The Statement of Facts involved, specifying:
 - (i) Applicant believes that the correct patent term adjustment should be **1,421 days** and the bases under 37 CFR §1.702 for adjustment are:

- (a) Failure to take certain actions within specified time frames (see 37 CFR §1.702(a)(1)):

The present application was filed on February 27, 2004 and a First Office Action (Restriction Requirement) was mailed by the Patent Office on June 25, 2007, which is 789 days after April 27, 2005 (i.e., fourteen months after the filing date of the present application); and

- (b) Failure to issue a patent within three years of the actual filing date of the application (see 37 CFR § 1.702(b) and (b)(1)):

A Request for Continued Examination was filed for the present application on May 20, 2010 which is 1,178 days after February 27, 2007 (i.e., three years after the filing date of the present application), and this delay of 1,178 days is due to the Patent Office' failure to issue a patent within three year after the date on which the application was filed. This 1,178 day delay **was not considered** by the Patent Office in the Determination of PTA included with the Notice of Allowance mailed July 6, 2011.

- (ii) Relevant dates as specified in 37 CFR §1.703(a) through (e) for which an adjustment is sought and the adjustment as specified in 37 CFR §1.703(f) to which the patent is entitled:

The period of adjustment under 37 CFR 1.702(a), (b) and (f) is:

The number of days in the period beginning on the day after the date that is fourteen months after the filing date of the present application (i.e., February 27, 2004) and ending on the mailing date of an Office Action (i.e., June 25, 2007 Restriction Requirement) is 789 days (see 37 CFR §1.703(a)(1));

The number of days in the period beginning on the day after the date that is three years after the filing date of the present application (i.e., February 27, 2007) and ending on the date on which a request for continued examination of the present application was

filed (i.e., May 20, 2010 Request for Continued Examination) is 1,178 days (see 37 CFR §1.703(b) and (b)(1)); and

The period of overlap for the above-identified delays begins on February 27, 2007 (i.e., three-year date after the filing date of the present application) and ends on June 25, 2007 (i.e., June 25, 2007 Restriction Requirement) is 118 days (see 37 CFR §1.703(f)).

The total PTA based on the sum of the two above-identified delays, taking the period of overlap and Applicant delay into consideration, is:

789 days + 1178 days – 118 days = 1849 days – 428 days (Applicant delay) = **1421 days**

(iii) This patent application and subsequently issued patent are not subject to a terminal disclaimer and any expiration date specified in a terminal disclaimer.

(iv)(A) Any circumstance during the prosecution of the present application which constitutes a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in 37 CFR §1.704:

The Patent Office mailed a Non-Final Rejection on September 2, 2008 and Applicant filed a Response to that Non-Final Rejection on March 2, 2009.

If any questions and/or further documents are needed by the Patent Office, it is respectfully requested that office personnel telephone the undersigned at the telephone number set forth below so that the issue(s) may be promptly resolved.

Early and favorable action is earnestly solicited.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,
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